

ASSEMBLY BILL

No. 2813

Introduced by Assembly Member Maddox

February 28, 2000

An act to amend Sections 7561.1 and 22358 of the Business and Professions Code, and to amend Section 1808.22 of the Vehicle Code, relating to records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2813, as introduced, Maddox. Confidential records: private investigators and registered process servers.

Under existing law, residential address information contained in any record of the Department of Motor Vehicles is confidential and may not be disclosed, except to attorneys and financial and insurance companies under specified conditions, including, with respect to attorneys, the submission of a request to the department signed under penalty of perjury, stating the reasons the information is required.

This bill would also provide access to this information by persons licensed under the Private Investigator Act and persons who are registered process servers to whom the department has issued a requester code, as authorized by other existing provisions of law. This bill would require that the licensed private investigators and registered process servers obtain this information through a vendor approved by the department who maintains an information surety bond in an amount of not less than \$50,000 and would impose other specified conditions with respect to their obtaining and using

this information, including submitting a request to the department stating under penalty of perjury that the information is required, with respect to a licensed private investigator, to represent his or her client in a criminal or civil action or, with respect to a registered process server, to effect service of process in a pending civil or criminal case. This bill would provide that licensed private investigators and registered process servers are authorized to obtain this information solely for the purpose of locating persons as described in their request and would prohibit the use or disclosure of the information for any purpose not directly related to these matters. This bill would make a violation of these provisions a crime and grounds for disciplinary action against a licensed private investigator or registered process server who violates its provisions.

By creating a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7561.1 of the Business and
- 2 Professions Code is amended to read:
- 3 7561.1. The director may deny, suspend, or revoke a
- 4 license issued under this chapter if he or she determines
- 5 that the licensee or his or her manager, if an individual,
- 6 or if the licensee is a person other than an individual, that
- 7 any of its officers, directors, partners, or its manager, has:
- 8 (a) Made any false statement or given any false
- 9 information in connection with an application for a
- 10 license or a renewal or reinstatement of a license.
- 11 (b) Violated any provisions of this chapter.



1 (c) Violated any rule of the director adopted pursuant
2 to the authority contained in this chapter.

3 (d) Been convicted of any act or crime constituting
4 grounds for denial of licensure under Section 480,
5 including illegally using, carrying, or possessing a deadly
6 weapon.

7 (e) Impersonated, or permitted or aided and abetted
8 an employee to impersonate a law enforcement officer or
9 employee of the United States of America, or of any state
10 or political subdivision thereof.

11 (f) Committed or permitted any employee to commit
12 any act, while the license was expired which would be
13 cause for the suspension or revocation of a license, or
14 grounds for the denial of an application for a license.

15 (g) Willfully failed or refused to render to a client
16 services or a report as agreed between the parties and for
17 which compensation has been paid or tendered in
18 accordance with the agreement of the parties.

19 (h) Committed assault, battery, or kidnapping, or
20 using force or violence on any person, without proper
21 justification.

22 (i) Knowingly violated, or advised, encouraged, or
23 assisted the violation of any court order or injunction in
24 the course of business as a licensee.

25 (j) Acted as a runner or capper for any attorney.

26 (k) Been convicted of a violation of Section 148 of the
27 Penal Code.

28 (l) Committed any act which is a ground for denial of
29 an application for a license under this chapter.

30 (m) Committed any act prohibited by Chapter 1.5
31 (commencing with Section 630) of Title 15 of Part 1 of the
32 Penal Code.

33 (n) Purchased, possessed, or transported any tear gas
34 weapon except as authorized by law. A violation of this
35 subdivision may be punished by the suspension of a
36 license for a period to be determined by the director.

37 (o) Been convicted of a violation of Section 95.3 of the
38 Penal Code.

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(p) Violated or failed to comply with any of the
2 provisions of subdivision (d) of Section 1808.22 of the
3 Vehicle Code.

4 SEC. 2. Section 22358 of the Business and Professions
5 Code is amended to read:

6 22358. (a) A certificate of registration may be
7 revoked or suspended whenever it has been determined
8 that ~~the~~:

9 (1) The registrant has made a service of process,
10 including service completed by an employee or
11 independent contractor of the registrant, ~~which~~ that does
12 not comply with the provisions of law governing the
13 service of process in this state or constitutes an improper
14 service of process not amounting to a violation of law.

15 (2) The registrant has violated or failed to comply with
16 any of the provisions of subdivision (e) of Section 1808.22
17 of the Vehicle Code.

18 (b) An investigation concerning the revocation or
19 suspension of a certificate of registration may be
20 commenced at any time at the option of the county clerk
21 if the county clerk deems it to be appropriate. A
22 complaint by any person who has alleged that he or she
23 has been injured by a service of process shall be
24 investigated by the public prosecutor. The investigation
25 shall determine if the registrant complied with the
26 provisions of law governing the service of process or
27 constituted improper service of process not amounting to
28 a violation of the law.

29 (c) If the public prosecutor determines from the
30 investigation that cause may exist for the suspension or
31 revocation of the certificate of registration, he or she shall
32 set the matter for hearing and give notice to the
33 registrant. That hearing shall be conducted in accordance
34 with Chapter 5 (commencing with Section 11500) of
35 Division 3 of Title 2 of the Government Code except that
36 the decision of the administrative law judge shall be final.
37 For the purposes of those provisions, the public
38 prosecutor shall be deemed to be the agency.

39 (d) If, after the hearing, the county clerk is notified
40 after the decision has become effective that the

1 administrative law judge has directed that the registrant's
2 certificate be suspended or revoked, the county clerk
3 shall forthwith suspend or revoke the certificate. If the
4 certificate is revoked, the bond or cash deposit required
5 by Section 22353 shall be forfeited to the county treasury
6 subject to the right of a person to recover against the bond
7 or cash deposit under Section 22357.

8 SEC. 3. Section 1808.22 of the Vehicle Code is
9 amended to read:

10 1808.22. (a) Section 1808.21 does not apply to a
11 financial institution licensed by the state or federal
12 government to do business in the State of California
13 which states under penalty of perjury that it has obtained
14 a written waiver of Section 1808.21 signed by the
15 individual whose address is requested, or to providing the
16 address of any person who has entered into an agreement
17 held by that institution prior to July 1, 1990, so long as that
18 agreement remains in effect.

19 (b) Section 1808.21 does not apply to an insurance
20 company licensed to do business in California ~~when~~ if the
21 company, under penalty of perjury, requests the
22 information for the purpose of obtaining the address of
23 another motorist or vehicle owner involved in an
24 accident with their insured, or requests the information
25 on an individual who has signed a written waiver of
26 Section 1808.21 or the individuals insured under a policy
27 if a named insured of that policy has signed a written
28 waiver.

29 (c) Section 1808.21 does not apply to an attorney when
30 the attorney states, under penalty of perjury, that the
31 motor vehicle or vessel registered owner or driver
32 residential address information is necessary in order to
33 represent his or her client in a criminal or civil action
34 which directly involves the use of the motor vehicle or
35 vessel that is pending, is to be filed, or is being
36 investigated. Information requested pursuant to this
37 subdivision is subject to all of the following:

38 (1) The attorney shall state that the criminal or civil
39 action that is pending, is to be filed, or is being

1 investigated relates directly to the use of that motor
2 vehicle or vessel.

3 (2) The case number, if any, or the names of expected
4 parties to the extent they are known to the attorney
5 requesting the information, shall be listed on the request.

6 (3) A residence address obtained from the
7 department shall not be used for any purpose other than
8 in furtherance of the case cited or action to be filed or
9 which is being investigated.

10 (4) If no action is filed within a reasonable time, the
11 residence address information shall be destroyed.

12 (5) No attorney shall request residence address
13 information pursuant to this subdivision in order to sell
14 the information to any person.

15 (6) Within 10 days of receipt of a request, the
16 department shall notify every individual whose residence
17 address has been requested pursuant to this subdivision.

18 (d) *Section 1808.21 does not apply to a person who is*
19 *licensed pursuant to the Private Investigator Act*
20 *(Chapter 11.3 (commencing with Section 7512) of*
21 *Division 3 of the Business and Professions Code) to whom*
22 *the department has issued a requester code that*
23 *authorizes the licensed private investigator to obtain the*
24 *information listed in Section 1808.21 through electronic*
25 *means. The information requested pursuant to this*
26 *subdivision is subject to all of the following:*

27 (1) *The licensed private investigator shall obtain the*
28 *information through a vendor who has been approved by*
29 *the department and who maintains an information*
30 *services surety bond in an amount of not less than fifty*
31 *thousand dollars (\$50,000).*

32 (2) *The licensed private investigator shall submit a*
33 *request to the vendor stating under penalty of perjury*
34 *that the residential address information of the registered*
35 *owner or operator of the motor vehicle or vessel is*
36 *necessary in order to represent his or her client in a*
37 *criminal or civil action that is pending or is to be filed. This*
38 *request shall include the case number, if any, or the*
39 *names of the expected parties, to the extent known to the*
40 *licensed private investigator requesting the information.*

1 (3) *The licensed private investigator is authorized to*
2 *obtain the information solely for the specific purpose of*
3 *locating an individual who is a witness or a party or who*
4 *is expected to be a witness or a party to the case cited in*
5 *the request submitted by the licensed private*
6 *investigator pursuant to paragraph (2).*

7 (4) *The information obtained pursuant to this*
8 *subdivision shall not be used or disclosed by the licensed*
9 *private investigator for any purpose that is not directly*
10 *related to his or her representation of the client as*
11 *described in the request submitted pursuant to*
12 *paragraph (2).*

13 (5) *The licensed private investigator shall not sell any*
14 *information obtained pursuant to this subdivision.*

15 (6) *The licensed private investigator who obtains*
16 *information pursuant to this subdivision shall maintain*
17 *proof as required by the department to demonstrate*
18 *compliance with the requirements of this subdivision.*

19 (7) *The director shall provide information to the Chief*
20 *of the Bureau of Security and Investigative Services that*
21 *will assist the chief to ensure compliance with this*
22 *subdivision and to enforce subdivision (p) of Section*
23 *7561.1 of the Business and Professions Code.*

24 (e) *Section 1808.21 does not apply to a person who is*
25 *registered as a process server pursuant to Section 22350*
26 *of the Business and Professions Code to whom the*
27 *department has issued a requester code that authorizes*
28 *the registered process server to obtain the information*
29 *listed in Section 1808.21 through electronic means. The*
30 *information requested pursuant to this subdivision is*
31 *subject to all of the following:*

32 (1) *The registered process server shall obtain the*
33 *information through a vendor who has been approved by*
34 *the department and who maintains an information*
35 *services surety bond in an amount of not less than fifty*
36 *thousand dollars (\$50,000).*

37 (2) *The registered process server shall submit a*
38 *request to the vendor stating under penalty of perjury*
39 *that the residential address information of the registered*
40 *owner or operator of the motor vehicle or vessel is*

1 *necessary in order to effect service of process in a pending*
2 *criminal or civil action. This request shall include the case*
3 *number or the names of the parties to the case.*

4 *(3) The registered process server is authorized to*
5 *obtain the information solely for the specific purpose of*
6 *locating an individual in order to effect service of process*
7 *on him or her in the case cited in the request submitted*
8 *pursuant to paragraph (2).*

9 *(4) The information obtained pursuant to this*
10 *subdivision shall not be used or disclosed by the registered*
11 *process server for any purpose that is not directly related*
12 *to effecting service of process as described in the request*
13 *submitted pursuant to paragraph (2).*

14 *(5) The registered process server shall not sell any*
15 *information obtained pursuant to this subdivision.*

16 *(6) The registered process server who obtains*
17 *information pursuant to this subdivision shall maintain*
18 *proof as required by the department to demonstrate*
19 *compliance with the requirements of this subdivision.*

20 *(f) A knowing violation of paragraph (1), (2), (3), (4),*
21 *or (5) of subdivision (c) or of subdivision (d) or (e) is a*
22 *misdemeanor. A knowing violation of paragraph (1), (2),*
23 *(3), (4), or (5) of subdivision (c) or of subdivision (d) or*
24 *(e) in furtherance of another crime is subject to the same*
25 *penalties as that other crime.*

26 *(g) Notwithstanding any other provision of law,*
27 *subdivisions (d) and (e) do not apply to information*
28 *pertaining to a person whose record is suppressed*
29 *pursuant to subdivision (d) of Section 1808.21.*

30 SEC. 4. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.

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